



February 17, 2016

ENGROSSED HOUSE BILL No. 1169

DIGEST OF HB 1169 (Updated February 16, 2016 11:41 am - DI 73)

Citations Affected: IC 6-1.1.

Synopsis: Business personal property tax exemption. Replaces the requirement that a taxpayer that is eligible for the business personal property tax exemption (exemption) submit to the county assessor a notarized statement each year affirming the taxpayer's eligibility for the exemption, subject to penalties for perjury, with a requirement that the taxpayer indicate on the taxpayer's personal property return that the taxpayer is eligible for the exemption for the assessment date.

Effective: Upon passage.

Saunders, Richardson, Klinker

(SENATE SPONSORS — HERSHMAN, LEISING)

January 7, 2016, read first time and referred to Committee on Ways and Means.
January 21, 2016, amended, reported — Do Pass.
January 25, 2016, read second time, amended, ordered engrossed.
January 26, 2016, engrossed. Read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 3, 2016, read first time and referred to Committee on Tax & Fiscal Policy.
February 16, 2016, amended, reported favorably — Do Pass.

EH 1169—LS 6448/DI 92



February 17, 2016

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1169

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-3-7.2, AS AMENDED BY P.L.249-2015,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 7.2. (a) This section applies to assessment
4 dates occurring after December 31, 2015.

5 (b) As used in this section, "affiliate" means an entity that
6 effectively controls or is controlled by a taxpayer or is associated with
7 a taxpayer under common ownership or control, whether by
8 shareholdings or other means.

9 (c) As used in this section, "business personal property" means
10 personal property that:

11 (1) is otherwise subject to assessment and taxation under this
12 article;

13 (2) is used in a trade or business or otherwise held, used, or
14 consumed in connection with the production of income; and

15 (3) was:

16 (A) acquired by the taxpayer in an arms length transaction
17 from an entity that is not an affiliate of the taxpayer, if the

EH 1169—LS 6448/DI 92



personal property has been previously used in Indiana before being placed in service in the county; or
 (B) acquired in any manner, if the personal property has never been previously used in Indiana before being placed in service in the county.

The term does not include mobile homes assessed under IC 6-1.1-7, personal property held as an investment, or personal property that is assessed under IC 6-1.1-8 and is owned by a public utility subject to regulation by the Indiana utility regulatory commission. However, the term does include the personal property of a telephone company or a communications service provider if that personal property meets the requirements of subdivisions (1) through (3), regardless of whether that personal property is assessed under IC 6-1.1-8 and regardless of whether the telephone company or communications service provider is subject to regulation by the Indiana utility regulatory commission.

(d) Notwithstanding section 7 of this chapter, if the acquisition cost of a taxpayer's total business personal property in a county is less than twenty thousand dollars (\$20,000) for that assessment date, the taxpayer's business personal property in the county for that assessment date is exempt from taxation.

(e) ~~A taxpayer that is eligible for the exemption under this section is not required to file a personal property return for the taxpayer's business personal property in the county for that assessment date. However, the taxpayer must, before May 15 of the calendar year in which the assessment date occurs, file with the county assessor an annual notarized certification signed under penalties for perjury stating that the taxpayer's business personal property in the county is exempt from taxation under this section for that assessment date. Except as provided in subsection (f), a taxpayer that is eligible for the exemption under this section for an assessment date shall indicate on the taxpayer's personal property tax return that the taxpayer's business personal property in the county is exempt from property taxation for the assessment date.~~

(f) For purposes of the January 1, 2016, assessment date, a taxpayer that is eligible for the exemption under this section may file with the county assessor before May 17, 2016, a certification of the taxpayer's eligibility for the exemption under this section instead of indicating the taxpayer's eligibility for the exemption on the taxpayer's personal property tax return.

SECTION 2. IC 6-1.1-3-7.3, AS ADDED BY P.L.242-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.3. (a) A county fiscal body may adopt an



ordinance to impose a local service fee on each person that ~~files an annual certification with the county assessor under section 7.2 of this chapter stating indicates on the person's personal property tax return or, for purposes of the January 1, 2016, assessment date, on the person's certification under section 7.2(f) of this chapter~~ that the person's business personal property in the county is exempt from taxation under section 7.2 of this chapter for an assessment date after December 31, 2015.

(b) The county fiscal body shall specify the amount of the local service fee in the ordinance. A local service fee imposed on a person under this section may not exceed fifty dollars (\$50).

(c) A local service fee imposed for an assessment date is due and payable at the same time that property taxes for that assessment date are due and payable. A county may collect a delinquent local service fee in the same manner as delinquent property taxes are collected.

(d) The revenue from a local service fee:

(1) shall be allocated in the same manner and proportion and at the same time as property taxes are allocated to each taxing unit in the county; and

(2) may be used by a taxing unit for any lawful purpose of the taxing unit.

SECTION 3. IC 6-1.1-37-7, AS AMENDED BY P.L.249-2015, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If a person fails to file a required personal property return on or before the due date, the county auditor shall add a penalty of twenty-five dollars (\$25) to the person's next property tax installment. The county auditor shall also add an additional penalty to the taxes payable by the person if the person fails to file the personal property return within thirty (30) days after the due date. The amount of the additional penalty is twenty percent (20%) of the taxes finally determined to be due with respect to the personal property which should have been reported on the return.

(b) For purposes of this section, a personal property return is not due until the expiration of any extension period granted by the township or county assessor under IC 6-1.1-3-7(b).

(c) The penalties prescribed under this section do not apply to an individual or the individual's dependents if the individual:

(1) is in the military or naval forces of the United States on the assessment date; and

(2) is covered by the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) or IC 10-16-20.

(d) If a person subject to IC 6-1.1-3-7(c) fails to include on a



personal property return the information, if any, that the department of local government finance requires under IC 6-1.1-3-9 or IC 6-1.1-5-13, the county auditor shall add a penalty to the property tax installment next due for the return. The amount of the penalty is twenty-five dollars (\$25).

(e) If the total assessed value that a person reports on a personal property return is less than the total assessed value that the person is required by law to report and if the amount of the undervaluation exceeds five percent (5%) of the value that should have been reported on the return, then the county auditor shall add a penalty of twenty percent (20%) of the additional taxes finally determined to be due as a result of the undervaluation. The penalty shall be added to the property tax installment next due for the return on which the property was undervalued. If a person has complied with all of the requirements for claiming a deduction, an exemption, or an adjustment for abnormal obsolescence, then the increase in assessed value that results from a denial of the deduction, exemption, or adjustment for abnormal obsolescence is not considered to result from an undervaluation for purposes of this subsection.

(f) If a person required by IC 6-1.1-3-7.2(e) to ~~file an annual certification with the county assessor fails to timely file the annual certification~~, **indicate on the taxpayer's personal property tax return or, for purposes of the January 1, 2016, assessment date, on the taxpayer's certification under IC 6-1.1-3-7.2(f) that the taxpayer's business personal property is exempt fails to timely file either the taxpayer's personal property tax return with the indication or, for purposes of the January 1, 2016, assessment date, the certification**, the county auditor shall impose a penalty of twenty-five dollars (\$25) that must be paid by the person with the next property tax installment that is collected.

(g) A penalty is due with an installment under subsection (a), (d), (e), or (f) whether or not an appeal is filed under IC 6-1.1-15-5 with respect to the tax due on that installment.

SECTION 4. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1169, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 16, strike "acquisition cost" and insert "**assessed value**".

Page 2, line 21, strike "A taxpayer that is eligible for the exemption under this section".

Page 2, strike lines 22 through 25.

Page 2, line 26, strike "annual".

Page 2, line 26, strike "certification signed under penalties for perjury stating".

Page 2, strike lines 27 through 28 and insert "**A taxpayer that is eligible for the exemption under this section for an assessment date shall indicate on the taxpayer's personal property return that the taxpayer's business personal property in the county is exempt from property taxation for the assessment date.**

SECTION 2. IC 6-1.1-3-7.3, AS ADDED BY P.L.242-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.3. (a) A county fiscal body may adopt an ordinance to impose a local service fee on each person that ~~files an annual certification with the county assessor under section 7.2 of this chapter stating indicates on the person's personal property return~~ that the person's business personal property in the county is exempt from taxation under section 7.2 of this chapter for an assessment date after December 31, 2015.

(b) The county fiscal body shall specify the amount of the local service fee in the ordinance. A local service fee imposed on a person under this section may not exceed ~~fifty twenty-five~~ dollars ~~(\$50): (\$25)~~.

(c) A local service fee imposed for an assessment date is due and payable at the same time that property taxes for that assessment date are due and payable. A county may collect a delinquent local service fee in the same manner as delinquent property taxes are collected.

(d) The revenue from a local service fee:

- (1) shall be allocated in the same manner and proportion and at the same time as property taxes are allocated to each taxing unit in the county; and
- (2) may be used by a taxing unit for any lawful purpose of the taxing unit.

SECTION 3. IC 6-1.1-37-7, AS AMENDED BY P.L.249-2015,



SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If a person fails to file a required personal property return on or before the due date, the county auditor shall add a penalty of twenty-five dollars (\$25) to the person's next property tax installment. The county auditor shall also add an additional penalty to the taxes payable by the person if the person fails to file the personal property return within thirty (30) days after the due date. The amount of the additional penalty is twenty percent (20%) of the taxes finally determined to be due with respect to the personal property which should have been reported on the return.

(b) For purposes of this section, a personal property return is not due until the expiration of any extension period granted by the township or county assessor under IC 6-1.1-3-7(b).

(c) The penalties prescribed under this section do not apply to an individual or the individual's dependents if the individual:

(1) is in the military or naval forces of the United States on the assessment date; and

(2) is covered by the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) or IC 10-16-20.

(d) If a person subject to IC 6-1.1-3-7(c) fails to include on a personal property return the information, if any, that the department of local government finance requires under IC 6-1.1-3-9 or IC 6-1.1-5-13, the county auditor shall add a penalty to the property tax installment next due for the return. The amount of the penalty is twenty-five dollars (\$25).

(e) If the total assessed value that a person reports on a personal property return is less than the total assessed value that the person is required by law to report and if the amount of the undervaluation exceeds five percent (5%) of the value that should have been reported on the return, then the county auditor shall add a penalty of twenty percent (20%) of the additional taxes finally determined to be due as a result of the undervaluation. The penalty shall be added to the property tax installment next due for the return on which the property was undervalued. If a person has complied with all of the requirements for claiming a deduction, an exemption, or an adjustment for abnormal obsolescence, then the increase in assessed value that results from a denial of the deduction, exemption, or adjustment for abnormal obsolescence is not considered to result from an undervaluation for purposes of this subsection.

~~(f) If a person required by IC 6-1.1-3-7.2(e) to file an annual certification with the county assessor fails to timely file the annual certification, the county auditor shall impose a penalty of twenty-five~~



dollars (\$25) that must be paid by the person with the next property tax installment that is collected:

~~(g)~~ **(f)** A penalty is due with an installment under subsection (a), (d), or (e) ~~or (f)~~ whether or not an appeal is filed under IC 6-1.1-15-5 with respect to the tax due on that installment."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1169 as introduced.)

BROWN T

Committee Vote: yeas 16, nays 4.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1169 be amended to read as follows:

Page 2, line 16, reset in roman "acquisition cost".

Page 2, line 17, delete "assessed value".

(Reference is to HB 1169 as printed January 22, 2016.)

TRUITT

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1169, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 28, delete "A" and insert "**Except as provided in subsection (f), a**".

Page 2, line 30, after "property" insert "**tax**".

Page 2, between lines 32 and 33, begin a new paragraph and insert:

"(f) For purposes of the January 1, 2016, assessment date, a taxpayer that is eligible for the exemption under this section may file with the county assessor before May 17, 2016, a certification of the taxpayer's eligibility for the exemption under this section instead of indicating the taxpayer's eligibility for the exemption on the taxpayer's personal property tax return."

EH 1169—LS 6448/DI 92



Page 2, line 38, after "property" insert **"tax"**.

Page 2, line 38, after "return" insert **"or, for purposes of the January 1, 2016, assessment date, on the person's certification under section 7.2(f) of this chapter"**.

Page 3, line 2, reset in roman "fifty".

Page 3, line 2, delete "twenty-five".

Page 3, line 2, reset in roman "(\$50).".

Page 3, delete line 3.

Page 4, line 12, reset in roman "(f) If a person required by IC 6-1.1-3-7.2(e) to".

Page 4, line 14, after "certification," insert **"indicate on the taxpayer's personal property tax return or, for purposes of the January 1, 2016, assessment date, on the taxpayer's certification under IC 6-1.1-3-7.2(f) that the taxpayer's business personal property is exempt fails to timely file either the taxpayer's personal property tax return with the indication or, for purposes of the January 1, 2016, assessment date, the certification,"**.

Page 4, line 14, reset in roman "the county auditor shall impose a penalty of twenty-five".

Page 4, reset in roman lines 15 through 16.

Page 4, line 17, reset in roman "(g)".

Page 4, line 17, delete "(f)".

Page 4, line 18, delete "or (e)" and insert "(e),".

Page 4, line 18, reset in roman "or (f)".

and when so amended that said bill do pass.

(Reference is to HB 1169 as reprinted January 26, 2016.)

HERSHMAN, Chairperson

Committee Vote: Yeas 10, Nays 0.

